



Carolina Telephone
Centel-North Carolina
Centel-Virginia
United Telephone-Southeast

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November 12, 1997

Mr. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

RE: Docket No. 97-00888 (Universal Service)
UTSE Comments in Lieu of Brief

Dear Mr. Waddell:

Pursuant to the October 31, 1997 Stipulation in the above case, enclosed are an original and thirteen copies of the Comments of United Telephone-Southeast, Inc. on Phase I issue numbers 2, 3, 4, 6 and 10-15.

Please contact me or Laura Sykora (919/554-7323) if you have any questions regarding this filing.

Sincerely yours,

A handwritten signature in cursive script that reads "James B. Wright / jm".

James B. Wright

JBW:er

CC: Laura Sykora (with enclosure)
Steve Parrott (with enclosure)
Bob Wallace (with enclosure)
Counsel of Record (with enclosure)

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CERTIFICATE
Universal Service Fund
(Docket No. 97-00888)

The undersigned hereby certifies that a copy of the Comments of United Telephone-Southeast, Inc. filed in the above docket is being provided to each of the following, by placing a copy of the same in the United States Mail postage prepaid and addressed as follows:

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STATE OF TENNESSEE
TENNESSEE REGULATORY AUTHORITY

In Re:)	
)	
Universal Service; Generic Contested Case)	Docket No. 97-00888
)	

COMMENTS OF UNITED TELEPHONE-SOUTHEAST, INC.

On October 29, 1997, United Telephone-Southeast, Inc. (referred to as Sprint) joined with other parties in this docket in a stipulation to certain issues to be addressed in Phase I. Further, Sprint signed and submitted an additional stipulation on November 7, 1997 agreeing that issues 2, 3, 4, 6, 10, 11, 12, 13 ,14 and 15 did not require the presentation of oral testimony and necessitated briefing. As certain of these issues are policy rather than legal issues, Sprint submits the following comments in lieu of briefs. Where the October 29, 1997, Stipulation constitutes Sprint's response to an issue, Sprint has repeated the Stipulation as its comment.

2. Will all carriers be able to provide all elements of universal service?

Stipulation: The TRA has authority to certify telecommunications service providers in Tennessee as "Eligible Telecommunications Carriers (ETC)" based on the Federal requirements outlined in Section 214(e)(1) [of the Federal Telecommunications Act of 1996 (Act)]. The FCC does allow an exception to these requirements. (FCC's Rule §54.101(c)). Upon petition to the TRA, a carrier incapable of providing single party service, E-911, or toll limitation services may receive Federal universal service support for a grace period to allow for completion of network upgrades to provide these components. The TRA should also adopt this exception for intrastate universal service support.

Sprint Comments

Sprint is currently providing all elements of universal service with the exception of toll control as evidenced in its Motion for Designation as an Eligible Telecommunications Carrier filed November 4, 1997. Sprint believes all ILECs have the same capability.

a. How should the TRA address "exceptional circumstances"?

Stipulation: The FCC rules should be followed for addressing "exceptional circumstances". (See response above.)

3. What carriers/providers are eligible to receive support?

Stipulation: At a minimum, any carrier who can demonstrate compliance with the requirements of Section 214(e)(1) of the Act is eligible to receive support.

a. What procedures will the TRA use for designating ETC?

Stipulation: Carriers should file a motion (as the TRA has requested in this docket) or a petition (for those carriers requesting designation as an ETC in the future) with the TRA for its approval. The TRA must ensure that the ETC at a minimum has met the requirements in Section 214(e)(1). Section 214(e)(1) does not prohibit a state from establishing additional criteria for designation of ETCs in connection with the state's Universal Service Fund, consistent with Section 254(f).

Contested Issue: What, if any, additional criteria should the state establish for the designation of ETCs?

Sprint Comments

Sprint supports the TRA adopting the requirements in Section 214 (e) (1) of the Act without additional criteria for ETC designation.

b. Should those companies not under TRA authority be designated as an ETC?

Stipulation: Yes, if a company is eligible for designation as an ETC and is willing to comply with the TRA's procedures, rules, and regulations governing universal service support administration.

c. Should the TRA adopt the Federal advertising guidelines?

Stipulation: Yes, the TRA should adopt the Federal advertising guidelines as set forth in Section 214(e)(1)(b).

d. Should the TRA adopt the Federal facilities requirements?

Contested Issue.

Sprint Comments

Yes, the TRA should adopt the Federal facilities requirements with one clarification regarding carriers who provide service through resale of wholesale LEC services. On July 17, 1997, Sprint filed a Petition for Reconsideration with the FCC regarding the level of facilities required to satisfy the facilities requirement of the

Act. The FCC found in its Order dated May 8, 1997, that a carrier could satisfy the facility requirement by providing its own access to operator services, and obtaining the remainder of the service through resale. The implication (if not intent) of this definition is that a CLEC can qualify for USF support if it resells ILEC basic services, but provides its own operator services. Sprint asserts that the result would be to both undermine the Commission's determination that USF support should not be afforded to resellers and to place the underlying facility carrier at significant financial risk. Sprint has, therefore, urged the FCC to reconsider its definition of the level of facilities a carrier is required to provide to receive USF support.

- e. Must a carrier participate in this proceeding to be eligible for designation as an ETC?

Stipulation: No.

- f. What procedure is necessary to ensure that all rural carriers satisfy notice of status requirement?

Stipulation: No procedure is necessary. If a rural carrier does not apply for rural carrier status, such status will not be conferred.

- 4. Define carrier of last resort designation.

Stipulation: At a minimum, "carrier of last resort" should reflect the Federal definition of "eligible telecommunications carrier".

- a. Is this term still relevant?

Stipulation: No, not in the context of this proceeding.

- b. If so, how do we designate?

Stipulation: Not applicable.

- c. Can a carrier of last resort withdraw service and if so how?

Stipulation: The TRA should implement the Federal rules (§54.205) regarding ETC withdrawal of service.

- 6. What carriers/providers must provide support under a Tennessee universal service system?

Stipulation: Section 254(f) of the Act requires "Every telecommunications carrier that provides intrastate telecommunications services shall contribute...to the preservation and advancement of universal service in that state."

- a. Define telecommunications carrier. Is the TRA required to use the Federal definition?

Stipulation: Yes. The TRA must adopt the Federal definition as set forth in Section 3(a)(49) of the Act.

Sprint Comments

Section 3(a)(49) of the Act defines telecommunications carrier as "any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in section 226)."

Section 3(a)(51) of the Act defines telecommunications service as "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used."

Section 3(a)(48) of the Act defines telecommunications as "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received."

- b. Does state or Federal law require contributions or participation from carriers not under TRA authority?

Stipulation: Yes.

10. How should the TRA determine the basis for support for low income consumers?

Stipulation: See Stipulations in Items 10(a) -(c).

- a. Should the TRA change its existing Lifeline program?

Stipulation: Yes. The TRA should notify the FCC of its approval of the additional reduction in intrastate Lifeline rates provided by the additional Federal support amount set forth in the FCC's Order in CC Docket NO. 96-45, adopted May 7, 1997.

Eligible telecommunications carriers must comply with the requirements of the federal Lifeline program and the low income consumer eligibility requirements set forth by the TRA.

- b. What standards and procedures should be adopted to address waiver requirements to the no-disconnect rule?

Stipulation: The TRA should adopt the waiver requirements set forth in FCC Rules §54.401(b)(1).

- c. What funding mechanism should be adopted to fund Lifeline and Linkup?

Stipulation: In addition to the federal funding mechanism for Lifeline and Link-up programs, an explicit state funding mechanism should be established for any TRA mandated reductions in end-user charges not funded from federal sources. State funding could come from an explicit surcharge on end-user bills, an explicit intrastate fund for Lifeline support, or by other means.

Sprint Comments

Currently, ILECs fund the intrastate portion of the Lifeline program. In order to encourage competitors to provide Lifeline services (thereby providing more consumers competitive alternatives) and to insure competitive neutral funding of the program, Sprint supports an explicit intrastate fund. As required by TCA 65-5-207(c) (5), the creation of this explicit funding requires the carriers to “rebalance the effect through a one-time adjustment of equal amount”. Therefore, creation of this explicit, competitively neutral funding mechanism does not result in a windfall to the ILECs currently providing and funding the service.

11. What support in addition to the Federal support already adopted by the TRA should be provided to schools and libraries?

Stipulation: TCA §65-5-208(a)(1) requires pre-existing state discounts for schools and libraries be continued. However, the Parties agree that no additional state support should be implemented.

Contested Issue: Is an explicit support mechanism necessary for existing state educational discounts?

Sprint Comments

Currently, ILECs and IXCs have state educational discounted services which the individual carrier funds. In order to encourage competitors to provide services in the educational market at comparable rates and to insure competitive neutral funding of discounts to educational markets, Sprint supports an explicit intrastate fund. As required by TCA 65-5-207(c) (5), the creation of this explicit funding requires the carriers to “rebalance the effect through a one-time adjustment of equal amount”. Therefore, creation of this explicit, competitively neutral funding

mechanism does not result in a windfall to the ILECs or IXC's currently providing and funding the educational discounts.

- a. The TRA should state specifically what discounts are available in Tennessee and at what levels.

Stipulation: The Parties agree that the TRA should specifically identify all school and libraries discounts available in Tennessee and the level for each.

- b. How does the TRA address pre-discount price complaints?

Stipulation: The existing complaint procedures should be followed with regard to any type of universal service complaint including but not limited to pre-discount complaints.

12. What support should be provided to health care providers?

Stipulation: See Stipulations to Issue 12(a) below.

- a. Should the TRA provide support in addition to that provided for by the Act and the FCC?

Stipulation: No.

- b. If so, who should pay for it and how?

Stipulation: Not applicable.

13. How should the TRA monitor provision of supported service to determine if support is being used as intended until competition develops?

Stipulation: The TRA should continue to monitor the quality of service provided by ETCs until there are two or more ETCs offering services in a given service areas.

- a. Does the TRA need cost allocation rules or accounting safeguards to determine that services supported do not bear more than a reasonable share of joint and common cost or otherwise unnecessarily subsidize a service?

Stipulation: No. Once universal service joint and common costs are determined in Phase II of this proceeding, cost allocation rules and accounting safeguards will not be necessary.

14. Are any changes in state laws or rules needed?

Stipulation: See Stipulations to 14(a) through 14(e).

- a. Is there a conflict between federal statute provision that universal service support should be explicit and the Tennessee statute requirement?

Stipulation: No. The TRA should develop an explicit mechanism for universal service support.

- b. How does the TRA reconcile state universal service statute with federal statute on "sufficient" universal service funding?

Stipulation: No reconciliation is necessary as there is no conflict between the statutes.

- c. Will rules have to be changed to allow various regulatory schemes to provide for recovery of any universal service contributions?

Stipulation: At this time, the parties do not anticipate any changes to the rules, but future developments may warrant further review of this issue.

- d. Will rules have to be changed to allow transition for carriers operating under various regulatory schemes?

Stipulation: At this time, the parties do not anticipate any changes to the rules, but future developments may warrant further review of this issue.

- e. If legislation is needed to appoint third party administrator, it must be obtained.

Stipulation: No. The provisions of TCA §65-5-207 convey broad authority to the TRA to create the appropriate universal support mechanism. This enabling provision includes the authority to identify a third party administrator and to promulgate rules and regulations for delegation of management responsibilities.

- 15. Should the access charge reform issues be incorporated into the schedule addressing Phase II of the universal service proceeding?

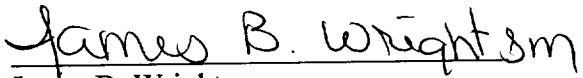
Contested Issue.

Sprint Comments

The TRA should consider the appropriate structure for access charges through the open docket on Access Charge Reform. Once the net financial impact of the Universal Service Fund is determined in Phase II of this docket, a LEC should be allowed to propose rate rebalancing plans, in accordance with TCA 65-5-207 (c) (5), to the TRA supported by the necessary cost studies to insure that proposed

prices are not below the TELRIC for the service. These rate rebalancing plans would be in accordance with TCA 65-5-207 (c) (5) and for price regulated LECs, in accordance with 65-5-209.

Respectfully submitted,
United Telephone-Southeast, Inc.


James B. Wright
Senior Attorney